G. R. S. IX-5]

Previous references.

Reserve.

File No. 224 18

1918.

(Cts)

Serial Nos. 102

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 102

Part B for april 19

SUBJECT.

Appeal against the order of acquittal in Sessions Case Nos 9010 of 18-19 on the file of the Asst Sessions Judge Mysore.

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(1) From, The Dt Magistrate, Mysore.
No R.O.C 927 D/10-3-19
States that the sanction of Govt may be obtained to prefer an appeal to the Chief Court against the sentence & acquittal of accused Nos 1 & 11 passed by the Asst Sessions Judge Mysore in Mysore Sessions cases Nos 9010 of 18-19

(2) Do The Dt Magistrate, Mysore. No G 28258 D/12 4/19
States that as the trial was by jury & as no question of law is involved an appeal does not lie

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 224-19

FILE HEADING.

Appeal against the order of acquittal in Sessions Case Nos 9 and 10 of 1919 on the file of the Asst Sessions Judge Mysore

From

The Dt Magistrate Mysore

No. Roc 927 Dated 10-3-19 Received 14-3-19

Diary No. 1289	Enclos. 2 fair file Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the sanction of Govt may be obtained to prefer an appeal to the Chief Court against the sentence of acquittal passed by the Asst Sessions Judge Mysore in Mysore Sessions Case Nos 9 & 10 of 1919 of admd Nos 1811

NOTES AND ORDERS.

Submitted with a draft to the Govt Advocate requesting to prefer an appeal ~~or their orders~~ for approval or their orders.

MGH 15-3

2. The Govt Advocate & the Public Prosecutor are of opinion that this

NOTES—First Sheet.

G. R. S. III-2.

General and Revenue Secretariat.

C/S File No. 224 of 1918.

Serial No.

is a fit case for appeal

Draft sanction & order for appeal

Other orders.

D. M. 20/3

I Member

This was a case tried by jury; [redacted] under Sec. 418 of the Cr. Pro. Code. There is no appeal in such a case except on a matter of law and there is no matter of law involved in the present case. How then is it suggested that an appeal should be preferred?

The Asstt Secy will please see me about this, after looking into the instructions issued by Govt. & if necessary consulting the Govt. Advt in person (to avoid delay).

22.3.18

Sd

As directed I discussed the matter with the Govt Advocate. He is now of opinion that there is no appeal to the Chief Court since there is no question of law involved in the case as req^d by S. 418 of the Cr. P. Code and that the fact that the trial was by jury had somehow escaped his attention

Please put up this with the record of the case. D. M. 20/3

Discussed with Govt Advocate

To be discussed to-morrow also

D. M. 21/3

891/21.3.18

Please put up this with the record of the case. D. M. 20/3

NOTE—Contin. sheet

G. R. S. III-2]

General and Revenue Secretariat. | Cl. File No. 224 of 1918.

Serial No.

whom no first gave his opinion
nor is there any case of mis-
direction to jury.
Under the circumstances, the matter
may, if appd, be dropped & the
D.C. Magistrate informed that no
appeal lies to the Chief Ch.
The file req. notice in connection
with trial by jury is also sent up.

D. M.
27/3

1000
21.3.19

I Member

The D.M. may be informed that
as the trial was by jury & no
as no question of law is involved,
an appeal does not lie ~~to the~~ under
Sec. 418 Cr. Pro. Code, & that the records
are ret.

Copy to go A.N.
1.4.19

Draft
D. M.
2/4

Draft sent

D. M.
5/4

8G
4/4
A.N.
4/4

2 To The D. M. Mysore
G 23256 of 12-4-19
States that as the trial was by jury &
as no question of law is involved

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Ch File No. 224 of 1918.

Serial No.

B 1614

16 MAR 1919

appeal does not lie under 44 & 45 Vict. c. 58 and returns the record.

NOTE—Contn. sheet.

WD A 1789—GPD—60,000—20-3-18—S.

12919

19 -19
SECTION
FILE No. 208-18
SERIAL No. 1

Rec'd No. 927 encls.
10/4

Office of the ~~District Magistrate~~
Mysore District.

Dated, Mysore, 10th March 1919.

From

T. Chokkanna, Esquire, B.A.,

District Magistrate,

Mysore District.

To

C.S. Balasundaram Iyer, Esquire, B.A.,

Chief Secretary to the Government of

His Highness the Maharaja of Mysore,

Bangalore.

Sir,

I have the honor to submit herewith copies of the judgment and depositions in Sessions Cases Nos. 9 and 10 of 1918-19 on the file of the Assistant Sessions Judge of Mysore, and to request that as both the Government Advocate and the Public Prosecutor agree that it is a fit case for appeal, sanction of Government may be kindly obtained to prefer an appeal accordingly to the Chief Court.

Copies of the written opinion of the Public Prosecutor and of the Government Advocate (208 dated 1st March 1919) accompany.

I have the honor to be,

Sir,

Your most obedient servant,

A-R
for District Magistrate,
Mysore District.

A.N.

W.D. 0244—GPB—6,00,000—19-5-16—S.

191

From

The District Magistrate,

Mysore District.

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

Dated 10th March 1919.

Despatched

Received

General No.

No.

Enclosure No.

States that sanction may be obtained from the Government to prefer an appeal to the Chief Court against the sentence of acquittal passed by the Assistant Sessions Judge, Mysore in Sessions Case Nos. 9 and 10 of 1918-19 on the file of his court.

"WRITTEN OPINION"

Sessions Cases Nos. 9 and 10 of 1918-19, on the file of the Assistant Sessions Judge, Mysore.

Government. vs. Raoji Oommaji and 10 others.

Date of disposal. 11th January 1919.

"WRITTEN OPINION ON THE JUDGMENT"

Facts of the case:-

There were 11 accused in the above-mentioned two cases. 10 accused were committed for trial in one batch; and one accused was committed for trial separately. As all the eleven persons were alleged to have been concerned in one and the same transaction, viz, of having attempted to commit house-breaking by night in the house of one ThimmeGowda (P.W.2) and of having made preparations to commit dacoity, (offences punishable under sections 457/511 and 399 Indian Penal Code) both the committals were clubbed together and all the accused were tried in one trial under Section 239 Criminal Procedure Code, before the Assistant Sessions Court.

The trial was held with the aid of a jury composed of 7 persons under the Government Notification issued in this behalf.

All the accused were acquitted, the Judge accepting the unanimous verdict of the jury that all accused persons were innocent.

OPINION:- With due respect to the Judge and the Jury, I am of opinion, that the acquittal of the 1st accused and of the 11th accused was erroneous. These two accused persons were caught red-handed as it were, by the villagers who pursued them, with implements of house-breaking which have been produced in the case. Accused No.1 had a crowbar and a sycle (Articles 2 and 1) and accused No.11 had a heavy hammer and a stick (articles 3 and 7). The villagers handled them roughly, the 1st accused receiving some injuries and the eleventh accused having his right leg twisted which necessitated an amputation in the Sri Krishnaraja Hospital, Mysore. Both were

tied

tied with ropes and kept near the Patel's house all night, and a report was made by the Patel early next morning and these two accused were handed over to the Police. These accused were working at the Krishnaraja Sagara Works (South Bank) about 3 miles from the village where the occurrence took place as stone-masonry, and have not been attending to the work after the date of occurrence. They admit that they were (unjustly) caught by the villagers and detained by them, and allege that they were roughly handled. The occurrence took place at midnight on 15th May 1918. There is overwhelming evidence on behalf of prosecution that these accused were among the crowd of dacoits and that they were caught in the night in the village with some implements of house-breaking. The case against these accused has been confounded with that of other accused persons who have been identified by the prosecution witnesses only by means of star-light. I am of opinion that the case against the 1st and 11th accused persons should be pressed in the Chief Court by filing an appeal against the judgment of acquittal and the case against other accused might be dropped.

Sd/- B.R. Krishnamachar,

Public Prosecutor,
Mysore Division.

Dated 13th January 1919.

" C O P Y "

For District Magistrate,

Mysore District.

A.N.

Letter No, 208 dated 1st March 1919 from the Government Advocate in Mysore, Bangalore to the District Magistrate, Mysore District.

.....

In returning herewith the private copies of the judgment and depositions in Sessions Case Nos. 9 and 10 of 18-19, on the file of the Assistant Sessions Judge, Mysore, received with your letter No. R.O.C. 927/J.18-19 dated the 24th ultimo, I have the honor to state that I agree with the learned Public Prosecutor in his opinion that an appeal may be preferred against the acquittal of the accused 1 and 11 in that case.

The case against the 1st accused is not as strong as that against the 11th, but having regard to the fact that he was found hiding near the place of occurence with a crow-bar and a sickle, we may try an appeal in his case also. The case of the other accused 2 to 10, which rests entirely on their vague and belated identification, may be dropped.

.....

" C O P Y "

For District Magistrate,
Mysore District.

MLW.

G. R. S. V1—G/32]

SUBJECT.....

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Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT

( )

, the *191*

Date of issue 12/4/19

Signed by Mr. Rice

Section C

File No. 226-18

Serial No. 2.

No. 52375

Records

To

The District Magistrate

Sir,

I am directed to refer to your letter R. O. C. No. 9270 D. 13-3-1919 requesting sanction to prefer an appeal against the order of acquittal of the 18th accused in Sessions case Nos. 9 & 10 of 1918-19 on the file of the Asst. Sessions

over.

Judge of Mysore, I am directed to state that at the trial in the present case was by jury and as no question of law is involved, an appeal does not lie under S. 418 Cr. P. Code.

The records received with your letter under reply are herewith in re.

I have etc.

D.M. 21/4
for Chief Secy

Secy
24/4
MSR
4/14/19

List of enclosures.

Copied by

Examined by

WD86—GPB—60,000—15-11-16